

Application No. 10/539,940
Amendment Dated: December 8, 2008
Reply to Office Action of: September 8, 2008

REMARKS/ARGUMENTS

Claims 1, 6 and 9 are amended. Claims 5, 10, 12 and 16-18 are canceled. Upon entry of the amendment, claims 1-4, 6-9, 11, 13-15, 19 and 20 are pending for consideration.

DRAWINGS

The drawings were objected to under 37 CFR §1.83(a). Applicant has canceled the features specified in the claims, namely claim 10. Therefore, the drawing objection is obviated.

OBJECTIONS - 35 U.S.C. §112

Claim 10 was rejected under 35 U.S.C. §112, first paragraph. Applicant has canceled the claim and, therefore, the objection is obviated.

Claims 9 and 12 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out distinctly claim the subject matter. Claim 9 has been amended to provide antecedent basis for the foot part.

Claim 12 has been canceled.

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CLAIM REJECTIONS - 35 U.S.C. §102

Claims 1-5 and 11-18 have been rejected as being anticipated by U.S. Patent No. 6,315,164 to Mühlbauer et al which is a patent owned by the assignee of the present application.

Applicant has amended the application to further define the invention by making substantial amendments to independent claim 1. Some of the amendments incorporate features which were previously set forth in independent claim 5 and claims 16-18. claims 5 and 16-18 have now been canceled.

It is respectfully submitted that the Examiner may not have fully appreciated that claim 1 explicitly recites guides which are not present in the cited Mühlbauer et al reference, U.S. Patent No. 6,315,164. In the cited Mühlbauer et al '164 reference, the nozzle holder does not move as recited in the claims as presently have been amended, but is in fact fixed in relationship to the analogous holder for the cartridge. There is no disclosure, teaching or suggestion of the movement relative to the guides as recited in the claims.

It will be further noted that the nozzle holder/guide features of the device as set forth at page 3, lines 34 *et seq.*, of the English translation of the specification are employed so that the "pressing-out forces act in the longitudinal direction such that the mixing nozzle cannot be forced out of the device by these forces".

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Claim 2-4, 6-9, 11, 13-15 and 19-20 which depend directly or indirectly on amended claim 1 are patentable for at least the reasons previously advanced for amended claim 1.

CLAIM REJECTIONS - 35 U.S.C. §103

Claims 6-9, 19 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,315,164 to Mühlbauer et al in view of U.S. Patent No. 5,441,175 to Jacobson et al.

Applicant has previously noted the distinctions concerning the Mühlbauer reference and the patentability of claims 6-9, 19 and 20.

Applicant does agree that Mühlbauer is silent with respect to transverse limit stops as well as longitudinal movement of the nozzle. Applicant, however believes that the Examiner has misinterpreted the Jacobson reference. In this regard, the Jacobson limit stop 77a cited by the Examiner is not a limit stop as recited in the claims, but is a tab which extends from the Jacobson cartridge. Accordingly, for these additional reasons, the noted claims 6-9, 19 and 20 are also patentable.

For the foregoing reasons, it is respectfully submitted that all claims in the application as amended are in condition for allowance. Accordingly, favorable reconsideration by the Examiner is respectfully solicited.

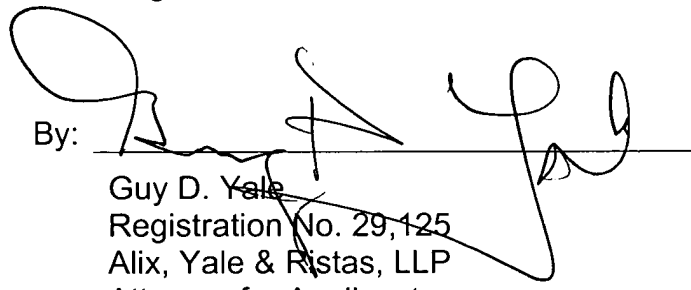
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Respectfully Submitted,

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